

Congress of the United States

Washington, DC 20515

August 9, 2022

The Honorable Lloyd J. Austin
Secretary of Defense
U.S. Department of Defense
1000 Defense Pentagon
Washington, D.C. 20301-1000

Dear Secretary Austin,

We are writing to request that the Department of Defense (DoD) clarify its policies on access and coverage for abortion services. Additionally, we ask DoD to define its plan to protect service members and military medical providers in cases where DoD policy related to abortion is more permissive than state law. We are deeply alarmed at the Supreme Court's decision in *Dobbs v. Jackson Women's Health Organization*, not only because it is unpopular with both the American public and Americans who are of-age to serve in the military, but because it will have a profound impact on the health, privacy, and capability of our service members, their dependents, and military medical providers.

Few military installations are capable of providing abortion services directly to service members and dependents at their on-base medical facilities. Since the *Dobbs* decision overturned *Roe v. Wade*, 26 states have outlawed or likely will outlaw abortion. Consequently, nearly half a million service members stationed domestically alone are at risk of losing access to abortion in the states where their military installations are based. These service members and their dependents must travel across state lines, and sometimes across multiple states, in order to access abortion care.

In cases where TRICARE does not cover abortion services, service members and their dependents must finance this travel and care themselves. Those who seek non-covered abortion services will also be required to tell their superiors in order to seek leave, especially if they are required to travel out of state. We are concerned that service members whose superiors oppose abortion could be forced to carry a pregnancy to term because their leave request gets denied. Rather than requiring service members to seek permission from their superiors for their personal healthcare decisions, we encourage DoD to ensure medical personnel are empowered to prescribe convalescent leave—without disclosing the medical procedure to be performed—to all service members seeking off-base and/or out-of-state abortion care and to ensure DoD medical personnel deem all such convalescent leave requests to be medically necessary.

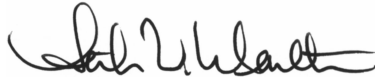
Emergency abortion is the treatment for many complications that can occur during pregnancy. Where emergency surgical abortion services are not available or are severely restricted either on-base or within the state, service members may not be able to reach a health care facility in time, threatening their lives and health. The limited availability of abortion services at military medical facilities will pose a greater threat to service members' lives as off-base abortion services grow more difficult to access. We urge DoD to expand the capability of on-installation medical facilities to provide abortion services in the case of medical emergency.

We ask that DoD provide answers to the below questions related to service members' access to abortion services and protections for service members and medical personnel.

1. A DoD memo issued June 28, 2022, reiterated that current Department of Justice policy prevents States from imposing criminal or civil liability on federal employees who perform their duties in a manner authorized by federal law. What is DoD's plan to review and codify this policy?
2. The Secretaries of the Army and Air Force have established policies enabling service members who are seeking abortion services to request leave without pre-approval from their commander or a requirement that they disclose the type of service they are seeking. Removing a requirement to disclose personal health information would prevent commanders from refusing to grant leave or retaliating against service members seeking abortion care. What steps is DoD taking to extend and codify these policies in all services?
3. As abortion services become increasingly difficult for service members to obtain in many locations, both at home and abroad, what is DoD's plan to increase the number of military medical personnel and abortion service providers?
4. TRICARE already covers non-prescription emergency contraceptives, such as Levonorgestrel (Plan B One-Step Emergency Contraceptive). What measures is DoD taking to ensure this emergency contraceptive remains available to beneficiaries on base? Will DoD allow medical providers to prescribe medical abortion medication (mifepristone and misoprostol) and make it available in military pharmacies?
5. What is DoD's current guidance for military medical personnel on installations or at duty stations that cannot provide abortions, including aboard ships, surrounding leave for service members who would need to travel to obtain abortion services? What is guidance for military personnel stationed abroad where abortion access is significantly restricted, either because the installation is extremely remote or the country in which they are stationed has a strict abortion ban?
6. Will leave be available at-will, or do military medical providers and/or commanding officers have the right to refuse leave to service members seeking abortion services? Must a service member's superiors be informed of the purpose of the convalescent or medical

leave? How will leave be granted for service members who are in training status or are otherwise barred from taking leave?

Sincerely,

A handwritten signature in black ink, appearing to read "Seth Moulton", written in a cursive style.

Seth Moulton
Member of Congress

A handwritten signature in black ink, appearing to read "Veronica Escobar", written in a cursive style.

Veronica Escobar
Member of Congress